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Docket No. 968-20-022

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of Cheiky, et al.

Filed: December 16, 2001

Art Unit: 2838

Serial No. 10/022,450

Examiner:

For: BATTERY CHARGING SYSTEM

**RECEIVED**

JAN 24 2003

**OFFICE OF PETITIONS**

**RENEWED PETITION FOR CORRECTED FILING RECEIPT**

THE COMMISSIONER OF PATENTS AND TRADEMARKS

Washington, D.C. 20231

Sir:

In response to the Decision on Petition dated October 11, 2002, Applicant files further evidence and argument.

The concurrently Declaration by Marvin E. Jacobs establishes that the present application and two related applications were deposited in the same Express Mail Postal Service Box on the same day at the same time, the end of business on Friday, December 14, 2001. Marvin E. Jacobs did not work on Saturday, December 15, 2001 or Sunday December 16, 2001.

The Declaration by Linda Arnold establishes that the checks accompanying the present application had consecutive numbers and were earlier in number than the checks written for the filing fees in the two related applications. All the checks for the three applications were written on December 14, 2001 and were posted to the clients account receivable account on December 14, 2001. Also

enclosed is a copy of the patent mailing log maintained in the office of Marvin E. Jacobs. It shows an entry for mailing 968-20-022 on December 14, 2001.

December 14, 2001 occurs during the busy Christmas holiday season when the U.S. Postal Service hires many part-time workers, not to mention the effects September 11, 2001 has had on the postal service.

It is believed clearly established that Express Mail No. EL307478544US package was not picked up on Friday, December 14, 2001 or was picked up and incorrectly dated. There are two Saturday pick up times at that box occurring at 10:00am and 3:00pm-but no pick up times on Sundays. December 16, 2001 was a Sunday. How can the Express Mail Label be correctly dated December 16, 2001 if there was no pick up on that day?

It is prejudicial to punish Applicant for the error of the U.S. Postal Service.

Declarant's secretary noticed the error in the filing date on or around January 22, 2001. She called the Patent Office on January 24, 2002 to investigate the source of the error. The updated Filing Receipt was received in April 2002.

Declarant's office was diligent and timely requested correction of the filing date even before receipt of a Filing Receipt.

The U.S. Patent and Trademark Office made two errors in this case-a filing date of December 17, 2001, not December 16, 2001 and a fee error. It must be recognized that the U.S. Postal Service also made an error in this case. The evidence filed by Applicant's counsel is consistent and substantial to prove that the present application was filed on December 14, 2001.



Respectfully submitted,

Marvin E. Jacobs

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on

10-18-02

Date

Signature